

HOUSE BILL REPORT

HB 2334

As Reported by House Committee On: Local Government

Title: An act relating to residential density requirements in fully incorporated island cities.

Brief Description: Modifying residential density requirements in fully incorporated island cities.

Sponsors: Representatives Appleton, Woods, Sells, Eickmeyer, Flannigan, Strow, B. Sullivan, Priest, Jarrett and Chase.

Brief History:

Committee Activity:

Local Government: 1/9/06, 1/30/06 [DPS].

Brief Summary of Substitute Bill

- Allows any qualifying island city to determine an urban residential density that is sufficient to accommodate its projected population growth.
- Specifies that nothing in the Growth Management Act shall be construed to require a qualifying island city to establish a uniform minimum residential density.
- Specifies that a qualifying island city must be coterminous with, and comprised only of, an island located in a county meeting certain population requirements.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Simpson, Chair; Clibborn, Vice Chair; B. Sullivan, Takko and Woods.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schindler, Ranking Minority Member and Ahern, Assistant Ranking Minority Member.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act

Enacted in 1990 and 1991, the Growth Management Act (GMA or Act) establishes a comprehensive land use planning framework for county and city governments in Washington.

The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

The GMA includes planning requirements relating to the use or development of land in urban and rural areas. Among other obligations, counties that comply with the major requirements of the GMA (GMA counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. "Urban growth" is defined by the GMA, in part, as a reference to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for specified agricultural, mineral resource, and rural purposes.

The GMA includes many requirements pertaining to UGAs that counties and cities must satisfy. Using population projections made by the Office of Financial Management, GMA counties and each city within these counties must include within UGA's areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding 20-year period. The UGAs must permit urban densities and include greenbelts and open space areas. The UGA determinations may include a reasonable land market supply factor and must permit a range of urban densities and uses. Additionally, a UGA provision grants cities and counties comprehensive plan discretion to make many choices about accommodating growth.

Residential Density - Definition and Board Decisions

Although the GMA includes provisions pertaining to density and the reduction of sprawling low-density development, neither "density" nor "residential density" is defined in the Act. The Department of Community, Trade, and Economic Development, defined "residential density" in its September 2004 guidance paper, *Urban Densities - Central Puget Sound Edition*, as, in part, the number of dwelling units over a specified land area.

The GMA does not prescribe a uniform minimum residential density, nor does the Act require jurisdictions to establish uniform minimum residential densities. Growth Management Hearings Boards have, however, issued decisions pertaining to residential densities. The Central Puget Sound Growth Management Hearings Board (CPSGMHB), for example, noted in its 1995 decision from *Bremerton, et al., v. Kitsap County*, that:

"...rather than adopt a maximum urban lot size, the Board instead adopts as a general rule a "bright line" at four net dwelling units per acre. Any residential pattern at that density, or higher, is clearly compact urban development and satisfies the low end of the range required by the [GMA]. Any larger urban lots will be subject to increased scrutiny by the Board to determine if the number, locations, configurations and rationale for such lot sizes complies with the goals and requirements of the [GMA]...Any new residential land use pattern within a UGA that is less dense is not a compact urban development pattern, constitutes urban sprawl, and is prohibited. There are exceptions to this general rule...However, this circumstance can be expected to be infrequent within the UGA and must not constitute a pattern over large areas."

The jurisdiction of the CPSGMHB, one of three boards established by the GMA, includes King, Pierce, Snohomish, and Kitsap counties.

Summary of Substitute Bill:

Qualifying island cities may determine an urban residential density that is sufficient to accommodate its projected population growth as required by the GMA. Nothing in the GMA shall be construed to require a qualifying island city to establish a uniform minimum residential density.

A qualifying island city must be coterminous with, and comprised only of, an island located in a county with more than 225,000 residents and fewer than 325,000 residents.

Substitute Bill Compared to Original Bill:

Includes additional intent language specifying that the Legislature does not intend for the Act to affirm, nullify, or otherwise affect decisions by Growth Management Hearings Boards or courts pertaining to required minimum densities in urban growth areas.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: After the enactment of the GMA, Bainbridge Island incorporated to control its own planning destiny. The City did not realize that the Act would require urbanization throughout the island. This bill is permissive and this issue is important to Bainbridge Island. Recent court decisions have led to confusion about the authority of Growth Management Hearings Boards and city obligations pertaining to density requirements. This bill will clarify that Bainbridge Island has the authority to establish its own density and will remove the specter of litigation. Bainbridge Island is an anomaly and it is geographically the fourth largest city in the state. Additionally, the City currently has a downtown area of greater density. Current density requirements will require the City to plan for an excessive number of people. This bill will remove that planning cloud, will allow the City to reach its planning goals, and will allow it to also retain its character.

(With Concerns) The Association of Washington Cities has been examining the issue of urban density during the interim. Additionally, the issue has been heavily litigated. Under current law, jurisdictions fully planning under the GMA must zone for population density, but their discretion is limited. The Legislature needs to recognize local government discretion to plan for density. The current law generally serves all cities: this bill may lead to questions about the authority of other cities.

Testimony Against: None.

Persons Testifying: (In support) Representative Appleton, prime sponsor; Representative Woods; Paul McMurray and Larry Frazier, City of Bainbridge Island; Darlene Kordonowy, Bainbridge Island Mayor; Charles Schmid, and Christine Rolfes.

(With concerns) Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.